

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:05cv274**

MARTINEZ CARDOZA

Plaintiff,

v.

MT. HALMASSBURG,

Defendants;

O’MARR REID,

Plaintiff,

v.

CITY OF MT. HOLLY, et al.,

Defendants.

ORDER

THIS MATTER is before the Court upon the plaintiff’s Application to Proceed without Prepayment of Fees and Affidavit (Doc. No. 7) and Amended Complaint (Doc. No. 8).

The Court previously denied the plaintiff’s application (Doc. No. 1) for failure to provide complete information and because the applicant’s name (“O’Marr S. Reid”) did not match the plaintiff’s (“Martinez Cardoza”). (Doc. No. 5). The instant application still fails to identify each source of money and the amount the plaintiff received in the past twelve months. (Doc. No. 7 at ¶ 3). Thus, the plaintiff has failed to satisfy the conditions of 28 U.S.C. § 1915(a).

IT IS, THEREFORE, ORDERED that the plaintiff’s Application is DENIED.

The plaintiff's amended complaint now identifies O'Marr Reid as plaintiff and the City of Mt. Holly, First Baptist Church, and others as defendants. (Doc. No. 8). The Court has authority under 28 U.S.C. § 1915(d) to dismiss a case at any time upon determination that the action is frivolous or fails to state a claim upon which relief may be granted. A complaint is frivolous when it lacks an arguable basis either in law or fact. White v. Gregory, 1 F.3d 267, 269 (4th Cir. 1993).

In the papers filed by the plaintiff, he claims he was subject to illegal surveillance which resulted in the broadcast of his copyrighted material and movements in the county through the Amber Alert system. (Doc. No. 8). The complaint and supporting materials fail to establish, among other things, the date of such alleged surveillance and broadcast, the identity of any responsible party, and the allegedly protected materials that were disclosed. Upon review of the entire record of this case, the Court finds the plaintiff's claims are frivolous and that he has failed to state a claim upon which relief may be granted.

IT IS, THEREFORE, FURTHER ORDERED that this action be dismissed.

Signed: August 31, 2005

A handwritten signature in cursive script, reading "Robert J. Conrad, Jr.", written over a horizontal line.

Robert J. Conrad, Jr.
United States District Judge

